



TESTIMONY OF **TEX G. HALL**  
**PRESIDENT OF THE NATIONAL CONGRESS OF AMERICAN INDIANS**  
**ON THE PROTECTION OF NATIVE AMERICAN SACRED LANDS**

EXECUTIVE COMMITTEE

PRESIDENT

**Tex G. Hall**  
*Mandan, Hidatsa, Arikara Nation*

FIRST VICE-PRESIDENT

**Joe A. Garcia**  
*Ohkay Owingeh*  
*(Pueblo of San Juan)*

RECORDING SECRETARY

**Colleen F. Cawston**  
*Colville Confederated Tribes*

TREASURER

**Alma Ransom**  
*St. Regis Mohawk Tribe*

June 4, 2002

Good morning Chairman Inouye, Vice Chairman Campbell, and distinguished Committee Members. My name is Tex G. Hall, Chairman of the Mandan, Hidatsa, and Arikara Nation and current President of the National Congress of American Indians (NCAI), the oldest and largest organization of tribes in the U.S. On behalf of the National Congress of American Indians (NCAI) and its more than 200 member tribal nations, I am pleased to have the opportunity to present testimony on sacred lands protection. Thank you for affording me the opportunity to represent our member-nations and their concerns on this issue.

NCAI has always been deeply concerned with the respectful treatment and protection of sacred lands. Historically subjected to the devastating, systemic destruction of their religious practices and sacred places, tribes continue today to suffer the heartbreaking loss and destruction of their precious few remaining sacred areas. These sacred places are critical to the revitalization and continuity of hundreds of living cultures, and represent an integral part of our religious practice and lifeways.

Every year, sacred sites that are integral to the practice of Indian religions are being destroyed. On my own reservation, Ft. Berthold, we are losing 30 to 40 feet of land along the Missouri River each year. This translates to 30 to 40 feet of burial sites and invaluable traditional cultural properties left unprotected per year, with exposure increasing with each passing year.

We believe this is happening in part because there is no comprehensive, effective policy to preserve and protect sacred lands and resources. Legal remedies such as the American Indian Religious Freedom Act, Executive order 13007 on Sacred Sites Protection, and the National Historic Preservation Act (NHPA) lack meaningful enforcement mechanisms, are often ineffectively implemented, and provide limited legal redress to aggrieved traditional religious practitioners and tribes.

EXECUTIVE DIRECTOR

**Jacqueline L. Johnson**  
*Tlingit*

NCAI HEADQUARTERS

1301 Connecticut Avenue, NW  
Suite 200  
Washington, DC 20036  
202.466.7767  
202.466.7797 fax  
[www.ncai.org](http://www.ncai.org)

## Sacred Lands Protection Coalition

Individuals and organizations that have been active in the movement to protect sacred lands are as diverse as the sites and the communities who tend them. As a result of the inadequate solutions available to tribes and traditional practitioners for the protection of sacred lands or places, the Sacred Lands Protection Coalition was formed with the goal of strengthening legal protections for sacred lands and to secure administrative accommodations for the use of sacred places by Indian religious practitioners. NCAI has participated actively in that Coalition.

Through Coalition meetings it has become apparent that sacred places continue to be endangered throughout the nation and that comprehensive legislation is needed to protect all Native American sacred places. Assembled tribal leaders have reached consensus in various meetings over the last few years to begin an organized effort to halt private and governmentally-sponsored development that will threaten or destroy sacred places.

Protection for our precious remaining sacred places is necessary for the survival of traditional religions and tribal cultures, and is key to preserving our cultural identity and our survival as nations. To date, the Coalition has identified several goals that, if achieved, may begin to address the concerns of traditional practitioners in a comprehensive manner. These goals may serve to inform you as you determine how best to move forward to address this critical and extraordinarily sensitive issue, and we hope to work with you as we further explore and develop the best options for approaching this important effort.

## Goals of the Sacred Lands Protection Coalition

### **1. Strengthen Administrative Policies**

Strengthening the administrative policies and regulations of Federal agencies which deal with historical preservation and administration of Federal lands to better protect sacred sites and accommodate the ceremonial use of such sites is a priority for tribes and traditional practitioners. Presently, agencies are encouraged to provide accommodations for the use of sacred places by "Native American religious practitioners." For most tribes this would limit protections and access to only those locations used or approved by a tribe's recognized religious leader. But other locations significant to the practice of traditional sacred activities that do not involve the recognized religious leaders -- who are male for the most part -- also need protection. These locations include women's places, young adult 'proving grounds', and healing locations used by all tribal people. The users of such sacred places may not have the status of "practitioners" and so would not be represented by the limited existing protections.

## **2. Tribal Consultation**

NCAI is deeply concerned with the federal government's failure to ensure adequate government-to-government consultation with tribes regarding sacred places. The input of tribes must be sought and considered when approaching the extremely sensitive process of protecting sacred places. Adequate consultation must be provided when material changes in use of any Federal lands are contemplated and whenever policies of Federal agencies change which materially affect Tribal interests. The United States must adhere to the trust responsibility it has to tribal governments and Indian people to protect and preserve Native culture and tradition. Consultation on a national level is, as always, key to ensuring that the mistakes of the past are not repeated.

## **3. Compliance and Enforcement of Existing Federal Law**

NCAI has recognized a critical lack of enforcement of the provisions in existing laws that protect sacred places. Our sacred places are not held in high regard by the federal government, an attitude evidenced by the blatant lack of compliance demonstrated by several of the federal agencies who most directly deal with sacred lands. Some of the panel members here today will discuss further the violation of rules and regulations designed to protect our sacred properties. Compliance with and enforcement of existing cultural resources protection laws is an integral element of treaty rights protection. We believe that a more consistent outreach and consultation approach, including federal Indian policy implementation plans with established protocols for working with tribes, would provide more reliable cultural resources protection compliance and enforcement.

NCAI asks your help in requesting an inventory of the existing federal agency sacred lands protection policies, including consultation policies, and an assessment of how the policies and regulations are currently applied. NCAI also requests that funds be made available for the inventory of policies and practices of federal agencies. NCAI, as a member of the Sacred Lands Protection Coalition, recommends implementation of one sacred lands protection policy for all federal agencies to follow and is willing to help develop this policy.

Once this review is completed, we would like the opportunity to provide recommendations to this Committee regarding legislative changes we believe may be necessary to more consistently protect our sacred lands.

## **4. Increased Protection**

Increased protections for all sacred places are essential to traditional practitioners and the generations to come. We need the help of this committee to aid us in educating your colleagues about the importance of protecting these sacred places—areas that are limited in scope but absolutely of essence to the

religious freedom of Native people throughout this nation. The Coalition intends to pursue comprehensive and well thought-out legislation to increase protection after all of the issues surrounding sacred places have been thoroughly explored.

## **5. Funding**

Tribes need financial assistance to protect and possibly purchase sacred places. When federal agencies do not fulfill their obligations to protect sacred places, tribes are left to depend on tribal resources that are in many cases extremely limited. Tribes need the opportunity to protect sacred lands when federal agencies do not provide protection, and we ask your help in ensuring that tribes in need of assistance have avenues of recourse. Additionally, tribes need funds to support meaningful consultation with federal agencies to ensure better communication and compliance with existing policies for those sacred places that remain on public lands.

There are many sacred places on lands owned by private entities. Access to sacred places located on private lands can prove to be difficult, and funding for the purpose of securing protection and access to sacred places from willing private owners should be made available to tribes. In seeking federal aid to purchase or otherwise protect sacred places, I want to be very clear that we are not asking for a hand out -- simply a very limited means to undo a small part of the destruction that federal policies of the past have done to remove sacred lands from the control of the tribes of whose lifeways they are an integral part. It seems a very small thing to ask the federal government to step forward and do what is right to protect what is left of our remaining sacred places in light of the shared history of which we are all familiar.

## **Conclusion**

As a Coalition, we recognize these goals will not be easy to achieve. But we have been fighting to save our sacred places for a long time now, and we are prepared to continue to fight for these places which are of absolutely paramount importance to our survival as tribal nations. NCAI commends the Senate Committee on Indian Affairs for providing the opportunity for tribes to convey their concerns, suggestions, and recommendations aimed at protecting the traditions, cultures, and sacred places of native peoples. I would like to thank each of you for taking the time to recognize the importance of this often forgotten aspect of this nation's serious commitment to the protection of religious freedoms, and for standing beside us as we seek to protect our lifeways.